

Appl. No. 10/765,369
Reply to Examiner's Action dated 7/26/2005

REMARKS/ARGUMENTS

The Applicant has carefully considered this application in connection with the Examiner's Action and respectfully requests reconsideration of this application in view of the foregoing amendment and the following remarks.

The Applicant originally submitted Claims 1-18 in the application. Presently, the Applicant has neither amended, canceled nor added any claims. Accordingly, Claims 1-18 are currently pending in the application.

I. Rejection of Claims 1-7 and 10-16 under 35 U.S.C. §103

The Examiner has rejected Claims 1-7 and 10-16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,438,977 to McKay ("McKay") in view of U.S. Patent No. 6,314,932 to Kallina ("Kallina"). Independent Claims 1 and 10 currently include the element of a vane coupled to a valve located in a housing coupleable to a top of a condenser of an air conditioner, the vane having an aerodynamically-shaped cross section useable to operate the valve. Each of McKay and Kallina fails to teach or suggest this element.

In direct contract to the claimed invention, McKay teaches and suggests that a paddle 70 is coupled to valve housing 36 using a cam 60. McKay specifically teaches that its paddle 70 is that of a flat plate configuration. Accordingly, McKay fails to teach or suggest the claimed element of a vane having an aerodynamically-shaped cross section useable to operate the valve.

Appl. No. 10/765,369

Reply to Examiner's Action dated 7/26/2005

In direct contrast to the present invention, Kallina is directed to an internal combustion engine's valve guide system. Kallina teaches that its valve guide 32 may include an aerodynamic profile, such as a vane profile. Nevertheless, even though the valve guide 32 may have a profile of a vane, it does not comprise a vane having an aerodynamically-shaped cross section useable to operate the valve. Namely, the valve guide 32 of Kallina is used to swirl the gasses as they pass thereby, and not operate the valve as claimed. (See Kallina at Column 6, lines 53-55). Thus, Kallina also fails to teach or suggest the vane having an aerodynamically-shaped cross section useable to operate the valve.

Moreover, one skilled in the art would not be motivated to combine the teachings of McKay and Kallina and arrive at the claimed invention. Specifically, McKay is directed to an air conditioning cooling apparatus and Kallina is directed to a valve guide system and method used in a combustion engine, which are clearly non-analogous art. Thus, the only person that might combine the teachings of McKay and Kallina would be a person using the present invention as a blueprint to reconstruct the claimed invention. As the Examiner is well aware, combinations based upon hindsight are not allowed.

Therefore, McKay, individually or in combination with Kallina, fails to teach or suggest the invention recited in independent Claims 1 and 10 and their dependent claims, when considered as a whole. Thus, the combination fails to establish a prima facie case of obviousness with respect to these claims. Claims 1-7 and 10-16 are therefore not obvious in view of the combination.

Appl. No. 10/765,369
Reply to Examiner's Action dated 7/26/2005

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 1-7 and 10-16 under 35 U.S.C. §103(a). The Applicant therefore respectfully requests the Examiner withdraw the rejection.

II. Rejection of Claims 8 and 17 under 35 U.S.C. §103

The Examiner has rejected Claims 8 and 17 under 35 U.S.C. §103(a) as being unpatentable over McKay in view of Kallina, as applied to Claims 1 and 10 above, and further in view of U.S. Patent No. 5,605,052 to Middleton, *et al.* ("Middleton"). Independent Claims 1 and 10 currently include the element of a vane coupled to a valve located in a housing coupleable to a top of a condenser of an air conditioner, the vane having an aerodynamically-shaped cross section useable to operate the valve. As previously established, each of McKay and Kallina fails to teach or suggest this element.

Middleton also fails to teach or suggest this claimed element. The Examiner is offering Middleton for the sole proposition that a filter may be coupled to the valve and the water source. Without even addressing whether the Examiner's proposition is accurate, a teaching or suggestion that a filter may be coupled to the valve and the water source is entirely different from a teaching or suggestion of a vane coupled to a valve located in a housing coupleable to a top of a condenser of an air conditioner, the vane having an aerodynamically-shaped cross section useable to operate the valve, as currently claimed. Accordingly, Middleton also fails to teach or suggest this claimed element.

Therefore, McKay, individually or in combination with Kallina and/or Middleton, fails to teach or suggest the invention recited in independent Claims 1 and 10 and their dependent claims,

Appl. No. 10/765,369
Reply to Examiner's Action dated 7/26/2005

when considered as a whole. Thus, the combination fails to establish a prima facie case of obviousness with respect to these claims. Claims 8 and 17 are therefore not obvious in view of the combination.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 8 and 17 under 35 U.S.C. §103(a). The Applicant therefore respectfully requests the Examiner withdraw the rejection.

III. Rejection of Claims 9 and 18 under 35 U.S.C. §103

The Examiner has rejected Claims 9 and 18 under 35 U.S.C. §103(a) as being unpatentable over McKay in view of Kallina, as applied to Claims 1 and 10 above, and further in view Middleton and still further in view of U.S. Patent No. 4,392,959 to Coillet ("Coillet"). Independent Claims 1 and 10 currently include the element of a vane coupled to a valve located in a housing coupleable to a top of a condenser of an air conditioner, the vane having an aerodynamically-shaped cross section useable to operate the valve. As previously established, each of McKay, Kallina and Middleton fails to teach or suggest this element.

Appl. No. 10/765,369

Reply to Examiner's Action dated 7/26/2005

Coillet also fails to teach or suggest this claimed element. The Examiner is offering Coillet for the sole proposition that a filter comprising hexametaphosphate may be coupled to the valve and the water source. Without even addressing whether the Examiner's proposition is accurate, a teaching or suggestion that a filter comprising hexametaphosphate may be coupled to the valve and the water source is entirely different from a teaching or suggestion of a vane coupled to a valve located in a housing coupleable to a top of a condenser of an air conditioner, the vane having an aerodynamically-shaped cross section useable to operate the valve, as currently claimed. Accordingly, Coillet also fails to teach or suggest this claimed element.

Therefore, McKay, individually or in combination with Kallina and/or Middleton and/or Coillet, fails to teach or suggest the invention recited in independent Claims 1 and 10 and their dependent claims, when considered as a whole. Thus, the combination fails to establish a prima facie case of obviousness with respect to these claims. Claims 9 and 18 are therefore not obvious in view of the combination.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 9 and 18 under 35 U.S.C. §103(a). The Applicant therefore respectfully requests the Examiner withdraw the rejection.

Appl. No. 10/765,369
Reply to Examiner's Action dated 7/26/2005

IV. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-18.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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